

Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

The Office Action of August 29, 2006, first objects to the disclosure because of identified formal matters. In reply, the specification has been amended to update the "Cross-Reference to Related Applications" to reflect the patent number pertaining to previously identified U.S. Patent Application No. 10/311,613, and to correct the typographical error noted at line 9 of page 3, overcoming the stated objections.

Claim 1 is then rejected under 35 U.S.C. §112, first paragraph, for reciting subject matter which was not properly described in the specification. It is indicated that claim 1 recites the phrase "and considering the individual basic roll function to include a coefficient when the individual basic roll function is referred to without mention of the coefficient" without a corresponding description of this subject matter in the specification. In reply, the specification has been amended to include an enabling description of this subject matter, at line 12 of page 8, by incorporating subject matter found in claim 1 as originally submitted, overcoming the rejection of claim 1 under 35 U.S.C. §112, first paragraph.

Claims 1 to 17 are once again rejected under 35 U.S.C. §101 because the claimed invention is considered to be directed

to non-statutory subject matter. The Office Action refers to Section 2106(IV)(B)(2)(b)(ii) of the Manual of Patent Examining Procedure, and takes the position that the amended language of independent claim 1 submitted with the Reply filed in this matter on March 15, 2006, does not yet recite a "practical application with a tangible result".

This matter was briefly discussed with the Examiner by telephone on November 22, 2006, and on November 27, 2006. During these telephone conferences, and based on the current guidelines, the Examiner indicated that the present rejection of claims 1 to 17 under 35 U.S.C. §101 could be overcome by the recitation of an actual practical application, the display of a result, or the storage of a result, and different options for complying with these guidelines were discussed. The undersigned would like to thank the Examiner for his consideration of this issue.

Claim 1 has been amended to presently recite the step of "shaping and superelevating said railroad tracks and other vehicle guideways" in accordance with the roll function which has been constructed, including actual practical applications such as the modification of railroad track transition curve geometry to allow operation at higher speed (as described in the original specification at lines 5 to 17 of page 3) and to adjust the alignment of an existing spiral whose shape has become deformed by passing trains (as described in the original specification at lines 18 to 29 of page 3), and the construction

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of track and guideway curve transition shapes such as the bends, jogs and wiggles identified in the specification (as described in the original specification at lines 2 to 9 of page 7).

Accordingly, it is submitted that claim 1 recites a "practical application with a tangible result", meeting the requirements of Section 2106(IV)(B)(2)(b)(ii) of the Manual of Patent Examining Procedure, and overcoming the rejection of claims 1 to 17 under 35 U.S.C. §101 because the claimed invention was considered to be directed to non-statutory subject matter.

It is noted that the Office Action of August 29, 2006, continues to indicate that claims 1 to 17 are deemed to be allowable over the prior art of record pending resolution of the above-discussed rejections. In view of the foregoing, it is submitted that applicant's claims have been placed in condition for allowance, and corresponding action is earnestly solicited.

Respectfully submitted,

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on: November 28, 2006.

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